

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MATTHEW EVANS,

Petitioner,

OPINION AND ORDER

20-cv-839-bbc

v.

UNITED STATES OF AMERICA,

Respondent.

Petitioner Matthew Evans has filed a motion for post conviction relief under 28 U.S.C. § 2255, asking the court to reduce the sentence imposed upon him in April 2010. He does not set forth any reason why he would be entitled to a reduction in his sentence, but even if he had done so, his motion is untimely and cannot be granted.

28 U.S.C. § 2255(f) sets a one-year period in which a defendant may file a motion claiming a right to be released. The one-year period runs from (1) the date on which the defendant's judgment of conviction became final; (2) the date on which the impediment to making the motion created by governmental action in violation of the Constitution or laws of the United States is removed (if the movant was prevented by governmental action from making a motion); (3) the date on which the right he is asserting was recognized initially by the Supreme Court (assuming that the right has either been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review); or (4) the

date on which the facts supporting the claim could have been discovered through the exercise of due diligence.

Petitioner has not made the necessary showing and could not do so because the time in which he could file for a reduction in his sentence expired years ago. His conviction became final on December 1, 2010, when the Court of Appeals for the Seventh Circuit entered judgment dismissing his appeal for his failure to comply with Circuit Court 3(c). He had one year from then in which to file a motion for post conviction relief under § 2255. He did not file such motion within the year and is therefore barred from doing so now.

ORDER

IT IS ORDERED that the motion for post conviction relief filed by petitioner Matthew Evans on May 22, 2020 is DENIED as untimely.

Entered this 22d day of September, 2020.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge